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State Representative • 3rd Assembly District

May 30, 2007

Members of the Senate Committee on Campaign Finance Reform, Rural Issues & Information Technology:

I would like to take this opportunity to request your positive consideration of Senate Bill 148 (SB 148), which would exempt assessors from being ticketed for trespassing while engaged in their official duties.

Senator Breske and I have introduced this legislation at the request of the Wisconsin Association of Assessing Officers.

Under current law, being on privately owned land with out owner permission is trespassing – even in the context of an assessor doing their job on the behalf of the state or local unit of government.

If the property owner is not present at the time an assessor attempts to collect data on the property, the assessor must try to schedule an appointment and/or come back at another time. This situation is less problematic when dealing with properties that are primary residences, but can become a time consuming and costly endeavor in the case of absentee landowners.

In rural areas of the state, the number of absentee property owners has increased significantly in recent years, making it considerably more difficult for assessors to obtain permission to view improvements on those properties.

SB 148 creates an exemption to current trespassing laws, by allowing an assessor or an assessor's staff to enter land or construction sites for the sole purpose of making an assessment of that property. The bill, in turn, requires the assessor to leave a notice for the owner – in a prominent place on the property – indicating that their property has been assessed and how to contact the assessor. This last provision is meant as a protection for the landowner.

Under SB 148, an assessor cannot be issued a trespassing citation for entering a property for the purpose of an assessment. The bill does not preclude a landowner from filing a civil suit against an assessor should the assessor do damage to the property during the course of an assessment.

Further, the bill provides immunity from civil liability for the owner of the property for any injury or death of an assessor or their staff – while engaged in official duties – who enters the

property without permission. The immunity does not apply if the injury or death resulted from reckless, wanton, or intentional misconduct of the property owner.

SB 148 does not allow entry into a building without permission. The bill is exclusively geared toward viewing and measuring the exterior of buildings, and applies only to assessors engaged in official business on behalf of the state or a local unit of government. Typically, an assessor engaged in "official business" will possess evidence supporting the collection of data such as appraisal cards, measuring devices, business cards, etc.

The goal of SB 148 is to provide an opportunity for assessors to more efficiently assess properties owned by absentee landowners. Enabling assessors to do their jobs in a more efficient and cost-effective manner will result in cost savings for the state and for local units of government. It is my intent to strike a balance between allowing assessors to do their jobs and private property rights.

Thank you for your careful consideration of SB 148. Please feel free to contact me if you have any questions or would like to discuss this matter further.

Sincerely,

A handwritten signature in black ink, appearing to read "Al Ott", with a stylized flourish at the end.

Al Ott
State Representative
3rd Assembly District



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Memorandum

To: All Legislators
From: Tom Larson, Director of Regulatory and Legislative Affairs
Date: May 30, 2007
Re: AB 293/SB 148 – Exempts Assessors from Trespassing Law

The Wisconsin REALTORS® Association urges you to oppose AB 293/SB 148, legislation that will allow property tax assessors to enter onto private property without being subject to trespassing laws.

Background

For years, tax assessors have been performing their responsibilities while respecting Wisconsin's trespassing laws. Like everyone else, the tax assessor has been required to get permission from the property owner in order to enter onto someone's property. If a property owner does not grant the tax assessor's request, the tax assessor has the authority to estimate the value of the property along with any improvements. Because the assessor's estimate is presumed to be correct, the property owner has a natural incentive to allow a tax assessor onto the property to obtain an accurate assessment. Accordingly, the current system provides the necessary checks and balances to ensure that property rights are respected and that property is assessed in a fair and equitable manner.

Concerns With AB 293/SB 148

By allowing tax assessors to enter onto private property without permission, AB 293/SB 148 raises the following concerns:

- **Infringes on fundamental rights of property owners.** The right to exclude others from entering onto private property is one of the most important rights of property ownership. For over 150 years, property owners have had the right to prohibit others from entering their property without permission. By allowing assessors to enter onto private property without permission, the bill encroaches on this fundamental right.
- **Raises privacy concerns.** The concept of private property was based, in part, on the notion that individuals and their families should have some place to pursue their own interests without interference from neighbors, the public, or the government. By allowing assessors to enter onto private property without permission, this bill begins to erode the expectation of privacy associated with owning private property.
- **No limits on access.** Under the bill, assessors are given free reign to enter private property without limitation. For example, the bill does not limit when assessors can

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- enter on to property (e.g., 24 hours a day, weekdays between 9 a.m. and 4 p.m.), how long they may stay on the property (e.g., 30 minutes, 2 hours, 6 hours), and the frequency of visits (e.g., 1 x/ every 4 years, annually, as often as they want).
- **No notice prior to entry.** Under the bill, property owners receive notice only AFTER an assessor has entered onto their property. No notice is required prior to an assessor entering onto private property. At a minimum, assessors should provide property owners with both (a) notice prior to entering their property, and (b) the opportunity to deny entry if they choose.

We encourage you to oppose AB 293/SB 148. If you have any questions, please contact me at (608) 240-8254.